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October 7, 2004

By ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
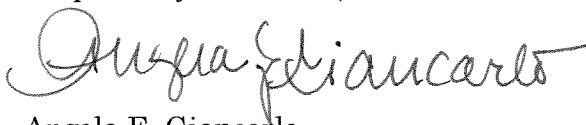Washington, D.C. 20554

Re: Rural Health Care Support Mechanism WC Docket No. 02-60

Dear Ms. Dortch:

On behalf of the American Samoa Telecommunications Authority ("ASTCA"), this is to notify you that I met with Dan Gonzalez, Senior Legal Advisor to Commissioner Martin, regarding the above-captioned proceeding today. During the meeting, I discussed the issues raised in the attached presentation, which reflect positions described in previous filings by ASTCA in this docket.

Please contact me with any questions concerning this presentation.

Respectfully submitted,

Angela E. Giancarlo
*Counsel for the American Samoa
Telecommunications Authority*

Enclosure

Electronic copy to Dan Gonzalez

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The Problem:

- Despite American Samoa's acute need for supported telemedicine to reach major health care centers in Hawaii and elsewhere, the territory in effect is disqualified from the program, which covers only the difference between rates in rural and urban areas in the same state.
- The problem is made worse by the illogical designation of American Samoa's main island of Tutuila, home to over 90% of the territory's population, as "urban" for this purpose – despite the fact that the entire territory is deemed "rural" for other purposes.

The Solution:

- The Commission must modify its rules to support long-distance, advanced telecommunications connections between rural health care providers located in remote insular areas such as American Samoa and advanced health care facilities located in a different state or territory.

Pertinent Facts:

- Notwithstanding the annual funding cap of $400 million, only $30.25 million in total discounts for the first five years of operation have been disbursed. There is no indication that recently adopted changes are causing significantly increased distributions from the fund.
- The Commission has long recognized the need to "tailor additional support mechanisms to address the unique circumstances faced by both the health care providers and telecommunications carriers that serve" remote insular territories such as American Samoa.
- American Samoa, located 2,600 miles from Hawaii, has no fully-equipped hospital. ASTCA makes available (at no charge, and with no support) a 384 kbps satellite link between the LBJ Tropical Medical Center in Tutuila and the University of Hawaii in Honolulu.
- Subsidies for telemedicine connectivity for a total of approximately six health care institutions located in four insular territories would not place a serious economic burden on the underutilized rural health care fund.

Legal Authority:

- Section 254(h)(2)(A) empowers the Commission to enhance access to "advanced telecommunications and information services" for all public and non-profit health care providers – including links between remote insular territories and urban centers located outside those territories – without regard to the urban-rural rate comparison set forth in § 254(h)(1)(A).
- *Texas OPUC v. FCC* (5th Cir. 1999) upheld the FCC's use of § 254(h)(2)(A) to provide e-rate funds to non-telecommunications entities that provide Internet access and internal connections, as well as certain services for health care providers not specified in § 254(h)(1)(A). This precedent makes it clear that § 254(h)(2)(A) authorizes the FCC to provide funding for advanced telecommunications services for rural health care providers over and above those specifically directed in the statute.
- The legislative history emphasizes that Congress wanted health care providers located in the Pacific insular territories to receive support for affordable access to advanced telecommunications services that support telemedicine.